

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2011, Legislative Day No. 19
Resolution No. 128-11

Mr. John Olszewski, Sr., Chairman
By Request of County Executive

By the County Council, November 21, 2011

A RESOLUTION to approve a request by the original Grantor for certain modifications of an existing County Rural Legacy easement in consideration for accepting increased environmental protections and clarification of certain wording of the easement; and

WITNESSETH, THAT WHEREAS, by Baltimore County Deed of Conservation Easement dated January 9, 2002, and recorded among the land records of Baltimore County, Maryland in Liber 16171, Folio 270 et seq. ("Original Easement"), North Charleston Lands Corporation ("Original Grantor") subjected to the operation and effect of the restrictive provisions of the Original Easement 216.407 -acres of certain real property ("Property") situate, lying and being in the Fifth Election District of Baltimore County, Maryland, and more particularly described in Exhibit A of the Original Easement; and

WHEREAS, Baltimore County, Maryland and the Land Preservation Trust ("LPT") were the original Grantees of the Original Easement; and

WHEREAS, the LPT recommends amending the Original Easement; and

WHEREAS, the Original Easement permitted one (1) primary residence of up to five thousand (5,000) square feet of total floor space, and the amend will provide for one (1) primary residence of up to eight thousand (8,000) square feet of total floor space; and

WHEREAS, the Original Easement permitted one (1) accessory residence that could be replaced with a residence of “similar size and purpose”, the amendment will limit the accessory residence to two thousand (2,000) square feet of total floor space; and

WHEREAS, the Amended Easement provides for an increased stream buffer protection requiring one hundred (100) foot buffer area on each side of the stream; and

WHEREAS, the Amended Easement requires that the Soil Conservation and Water Quality Plan be current at all times and that the plan include provisions of the easement; and

WHEREAS, the Amended Easement continues to permit forest harvesting of the existing woodland but does not allow the conversion of the woodland to cropland or other than uses.

NOW, THEREFORE, BE IT RESOLVED by the County Council of Baltimore County, Maryland, that in accordance with 24-5-10 of the Baltimore County Code, 2003, as amended, the Baltimore County Deed of Conservation Easement dated January 9, 2002, and recorded among the land records of Baltimore County, Maryland in Liber 16171, Folio 270, et seq. (“Original Easement”), North Charleston Lands Corporation (“Original Grantor”) subjected to the operation and effect of the restrictive provisions of the Original Easement 216.407 -acres of certain real property (“Property”) situate, lying and being in the Fifth Election District of Baltimore County, Maryland, and more particularly described in Exhibit A of the Original Easement shall be amended and the amendment (Exhibit 1) shall be recorded in the Baltimore County Land Records.

AMENDMENT TO BALTIMORE COUNTY
DEED OF CONSERVATION EASEMENT

THIS AMENDMENT TO BALTIMORE COUNTY DEED OF CONSERVATION EASEMENT ("Amendment") is made this ____ day of _____, 2011, by and between NORTH CHARLESTON LANDS CORPORATION, having an address at 7962 Lee Haven Road, Easton, Maryland 21601 (hereinafter referred to as the "Grantor" which term includes all successors and assigns who own all or a portion of the Property, as defined below), and BALTIMORE COUNTY, MARYLAND, a body corporate and politic (hereinafter referred to as "the County", and THE LAND PRESERVATION TRUST, INC., a Maryland nonprofit corporation, having an address at 11350 McCormick Road, Executive Plaza One, Suite 502, Hunt Valley, Maryland (hereinafter referred to as "LPT, the County and LPT hereinafter jointly referred to as the "Grantees").

WITNESSETH, THAT WHEREAS, by Baltimore County Deed of Conservation Easement dated January 9, 2002, and recorded among the land records of Baltimore County, Maryland in Liber 16171, Folio 270, et seq. ("Original Easement"), North Charleston Lands Corporation ("Original Grantor") subjected to the operation and effect of the restrictive provisions of the Original Easement 216.407 acres of certain real property ("Property") situate, lying and being in the Fifth Election District of Baltimore County, Maryland, and more particularly described in Exhibit A of the Original Easement; and

WHEREAS, Baltimore County Maryland and the Land Preservation Trust ("LPT") were the original Grantees of the Original Easement; and

WHEREAS, the Original Easement permitted one (1) primary residence of up to five thousand (5,000) square feet of total floor space, and one (1) accessory residence that could be replaced with a residence of "similar size and purpose"; and

WHEREAS, the Original Easement established a Permitted Building Area; and

WHEREAS, the accessory residence existing at the time the Original Easement was executed and recorded has been demolished; and

WHEREAS, the purpose of this Amendment is to (1) revise Article IV to increase the protections afforded by the required Vegetative Buffer Strip, to tighten the requirements and increase the standards for the Soil and Water Quality Plan and Forest Management Plans; (2) to revise Article V. (C) to modify the size of Permitted Primary Residence; (3) to revise Article V; (D) to modify the size of the permitted size of the second allowed residence; (4) to revise Article V I. to clarify the restrictions on subdivision; and (5) to add Article IX. T. providing for an amendment procedure.

WHEREAS, Grantees are authorized by the laws of Maryland to accept, hold and administer conservation easements and have the authority and are willing to accept the Original Easement as amended by the provisions of this Amendment; and

WHEREAS, Grantor and Grantees acknowledge and agree that, in accordance with the terms of the Original Easement, this Amendment shall be recorded among the Land Records of Baltimore County, Maryland.

NOW, THEREFORE, Grantor and Grantees hereby declare that the Original Easement shall be and, by this Amendment, is hereby amended in the manner hereinafter set forth, and that with no monetary consideration (\$0.00), but in consideration of the mutual covenants, terms, conditions and restrictions hereinafter set forth or set forth in the Original Easement, Grantor unconditionally and irrevocably hereby grants and conveys unto Grantees, their successors and assigns, forever and in perpetuity, an amendment to the Original Easement of the nature and character and to the extent hereinafter set forth:

1. Article IV. F of the Original Easement is hereby deleted in its entirety and is replaced with the following:

F. Vegetative Stream Buffer

A thirty-five (35) foot nondisturbance vegetative buffer strip ("Buffer Strip) measured from the top of stream bank or edge of wetlands and a sixty-five (65) foot limited disturbance area ("Managed Area") totaling one hundred (100) feet (collectively, the "Protection Area") is required on the streams or water bodies as indicated on Exhibit 1. The purpose of the Protection Area is to preserve water quality through practices that provide stream bank stabilization and reduce soil and nutrient delivery from adjacent agricultural uses.

In the Buffer Strip, the Grantor shall either; maintain existing vegetation, if predominantly trees or shrubs; allow the buffer strip to naturally colonize in trees or shrubs, if not currently in trees; and/or plant the buffer strip with native species, which may include warm season grasses, if not currently in trees. The Grantee shall review and approve the appropriate method/s to establish the Buffer Strip if not currently in trees and shrubs. Once established, there shall be no plowing, grazing, tilling, or removal of native trees and shrubs subject to approval by the Department of Environmental Protection and Sustainability except for the purposes of establishing or maintaining the Buffer Strip which includes semiannual mowing of warm season grasses in accordance with the Soil Conservation and Water Quality Plan. Access through the Buffer Strip for crossing to fields or watering of livestock shall be limited and in accordance with the Soil Conservation and Water Quality Plan.

In the Managed Area, limited agricultural activities may occur provided these are in accordance with Best Management Practices (BMPs) for highly erodible lands to limit the maximum soil

loss to 20% above T (Soil loss tolerance, for a specific soil, is the maximum average annual soil loss expressed as tons per acre per year that will permit current production levels to be maintained economically and indefinitely) as recommended by the Soil Conservation District. This condition and the appropriate BMPs shall be included within the required Soil Conservation and Water Quality plan for the Property.

Grantors shall not store manure, compost, pesticides, insecticides, herbicides or fertilizers within any part of the one-hundred (100) foot vegetative stream buffer.

2. Article IV. G of the Original Easement is hereby deleted in its entirety and is replaced with the following:

G. Soil Conservation and Water Quality Plan

Prior to settlement of this Conservation Easement, Grantor shall provide a Soil Conservation and Water Quality Plan ("SCWQ Plan) prepared and approved by the local Soil Conservation District (SCD) to the Grantee. The objective of the SCWQ shall be to ensure sustainable use and sound management of soil, water, air, plant and animal resources on the Property and to reduce the impacts to water quality from agricultural practices. The SCWQ Plan shall include a combination of conservation practices and resource management for the treatment of all identified resource concerns for soil, water, air, plants and animals that meets or exceeds the quality criteria in the Natural Resource Conservation Service Field Office Technical Guide ("Guide") for resource sustainability or any comparable provisions of any guide or regulations which may replace the Guide in the future or as it may be amended from time to time. Grantor must maintain the SCWQ plan and follow the implementation schedule developed in the SCWQ Plan. Grantor and the SCD may make revisions and updates, including the schedule of implementation, as land use practices or management changes. The SCWQ Plan, implementation schedule, revisions and exceptions are subject to Grantee approval. Grantor shall provide a copy of the SCWQ Plan and any revisions to Grantee and Grantee shall have the right of enforcement.

3. Article IV. H of the Original Easement is hereby deleted in its entirety and is replaced with the following:

H. Forest Management

In "Woodland Areas" that are indicated on Exhibit 1. there shall be no burning, mowing, cutting, removal, grazing, livestock access, plowing, tilling or destruction of native trees, shrubs, grasses or other native vegetation unless: Grantor and said activity are in full compliance with a Forest Management Plan prepared by a licensed forester; and said activity is in compliance with the Soil Erosion and Sediment Control Guidelines for Forest Harvest Operations in Maryland,

prepared by the Maryland Department of Environment, as they may be amended from time to time (the "Guidelines"), or comparable provisions of any guidelines, regulations or other requirements which may replace the Guidelines in the future.

Woodland Areas are defined as areas excluding crop hedgerows that are composed of primarily woody vegetation that include trees and shrubs. In the event that there is a Vegetated Stream Buffer Area within the Woodland Area it shall be managed in accordance with Section F.

Conversion of Woodland Areas to any other land use such as agricultural fields, pasture land or for building areas is not permitted except with prior approval by Grantee. Mitigation for forest loss may be required as determined by Grantee.

At a minimum, the Forest Management Plan shall include:

- (1) an inventory of any physical and natural features of the land (including wetlands, streams, water bodies, roads, trails, public use areas, special plan and wildlife habitats, rare or unique species and communities, and other environmentally sensitive features) including any features identified in this Conservation Easement;
- (2) a vegetation map, a soils map and a topographic map
- (3) an access plan for the Property, including all areas to be commercially managed;
- (4) erosion control measures, specifically addressing water bodies and wetland areas; and
- (5) management strategies for forest health and species diversity (including the need to leave cover over streams and water bodies), endangered or threatened species habitat, steep slopes, and for the control of invasive species.
- (6) Retain a tree basal area of at least 70 (seventy) square feet per acre of acceptable growing stock unless prescribed by a licensed forester for forest health.

4. Article V.C of the Original Easement is hereby deleted in its entirety and is replaced with the following:

C. To construct Residence A (the Primary Residence) which may not exceed a gross floor area of 8,000 (eight thousand) square feet of total floor space, provided the residence is located in the approved building area shown on Exhibit C, Permitted Building Area;

5. Article V. D of the Original Easement is hereby deleted in its entirety and is replaced with the following:

D. Residence B (the Accessory Residence) may not exceed a gross floor area of two thousand (2,000) square feet, calculated by first multiplying the exterior footprint of the portions of the Structure with multiple stories by the number of stories with windows and then adding the exterior footprint of any portions of the Structure with one story,

including, but not limited to garages, but excluding unenclosed decks or porches, basements and attics. All other existing structures and other structures permitted under this Conservation Easement may be replaced with structures of similar size and purpose, consistent with paragraphs A and B above;

6. Article VI of the Original Easement is hereby deleted in its entirety and is replaced with the following:

Subdivision. The division, partition or subdivision ("Division") of the Property, including the lease of any portion less than one hundred percent (100%) of the Property for a term in excess of twenty (20) years, into more than the five (5) parcels of land that constitute the Property, for any purpose, is prohibited. In addition, said parcels shall remain in common ownership as if the Property was only one (1) parcel. The Property may not be consolidated into a larger parcel, and the boundary lines of the Property may not be adjusted.

In addition, Grantees may approve the Division of the Property for reasons which Grantees determine, in their sole discretion, are sufficiently extraordinary to justify an exception to the prohibition.

The provisions of the Original Easement shall for all purposes be, and are hereby, amended in the manner set forth in the provisions of this Amendment. Except as set forth herein, the provisions of the Original Easement shall hereafter remain in full force and effect.

TO HAVE AND TO HOLD unto Baltimore County Maryland and Land Preservation Trust, Inc., their successors and assigns, forever. The covenants agreed to and the terms, conditions, restrictions and purposes imposed as aforesaid shall be binding upon Grantor, its successors and assigns, and shall continue as a servitude running in perpetuity with the Property.

IN WITNESS WHEREOF, Grantor and Grantees have executed and set their hands and seals in the day and year first above written.

WITNESS/ATTEST:

GRANTOR:
NORTH CHARLESTON LANDS CORPORATION

By: _____ (SEAL)

JOHN NOBLE
PRESIDENT

STATE OF MARYLAND, _____ of _____ TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 2011, before me the subscriber, a Notary Public of the State aforesaid, personally appeared JOHN NOBLE, known to me (or satisfactorily proven) to be President of North Charleston Lands Corporation, Grantor of the foregoing Amendment to Rural Legacy Deed of Conservation Easement and acknowledged that he executed the same for the purposes therein contained and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public
My Commission Expires _____

WITNESS/ATTEST:

GRANTEE:
LAND PRESERVATION TRUST, INC., a
Maryland nonprofit corporation

By: _____ (SEAL)
Edward A. Halle, Jr.
Vice-President

STATE OF MARYLAND, _____ of _____, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 2011, before me the subscriber, a Notary Public of the State aforesaid, personally appeared EDWARD A. HALLE, JR., known to me (or satisfactorily proven) to be the Vice President of the Land Preservation Trust, Inc., a Grantee of the foregoing Amendment to Rural Legacy Deed of Conservation Easement and acknowledged that he executed the same with full authority of the Land Preservation Trust for the purposes therein contained and in my presence signed and sealed the same.

WITNESS my hand and Notarial Seal.

Notary Public
My Commission Expires: _____

WITNESS/ATTEST:

GRANTEE:
BALTIMORE COUNTY MARYLAND

_____ By: _____ (SEAL)

County Administrative Officer

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, 2011, before me the subscriber, a Notary Public of the State aforesaid, personally appeared, _____ known to me (or satisfactorily proven) to be the Administrative Officer of Baltimore County, Maryland, a body corporate and politic, and acknowledged that he executed the same for the purposes therein contained, being authorized so to do, and in my presence signed and sealed the same.

AS WITNESS my hand and Notarial Seal the day and year last above written .

Notary Public

My Commission Expires: _____

Approved for Legal Form and Sufficiency*
(Subject to Execution by the Duly Authorized
Administrative Official and Chairman of the
County Council, As Indicated)

Office of the County Attorney

Approval of Legal Form and Sufficiency
Does Not Convey Approval or Disapproval
of this Transaction. Approval is Based Upon
Typeset Document. All Modifications
Require Re-Approval.

This is to certify that the within instrument was prepared under the supervision of the
Title Examination Supervisor who is an attorney admitted to practice before the Court of
Appeals of Maryland.

Title Examination Supervisor

NORTH CHARLESTON LANDS CORPORATION
Deed of Conservation Easement Amendment
Exhibit 1.

Exhibit 1. Annotated Aerial Photograph of Vegetative Stream Buffer and Woodland Areas of the Property is kept on file at the principal offices of the Grantee and is fully and completely incorporated into this Conservation Easement as though attached hereto and made a part hereof. Exhibit 1. consists of 1 page.

Wsl/piney/north Charleston amendment revised

NORTH CHARLESTON LANDS CORPORATION
Deed of Conservation Easement Amendment
Exhibit 1.

Exhibit 1. Annotated Aerial Photograph of Vegetative Stream Buffer and Woodland Areas of the Property is kept on file at the principal offices of the Grantee and is fully and completely incorporated into this Conservation Easement as though attached hereto and made a part hereof. Exhibit 1. consists of 1 page.

Wsl/piney/north Charleston amendment revised